

WILLIAM WINTER AND MRS. REGINA WINTER

MARCH 19, 1958.—Committed to the Committee of the Whole House and ordered
to be printed

Mr. LANE, from the Committee on the Judiciary, submitted the
following

REPORT

[To accompany H. R. 2635]

The Committee on the Judiciary, to whom was referred the bill (H. R. 2635) for the relief of William Winter and Mrs. Regina Winter, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to provide that for the purposes of section 10 (E) of the Federal Employees' Compensation Act and section 202 (h) of the Social Security Act, William Winter and Mrs. Regina Winter of New York shall be deemed to be the parents of Jack Winter who died July 1, 1954, while engaged in the performance of his duties as an employee of the Federal Mediation and Conciliation Service.

STATEMENT

The beneficiaries of H. R. 2635 are the aunt and uncle of a former employee of the Federal Mediation and Conciliation Service, Jack Winter. That employee died on July 1, 1954, as a result of injuries he sustained in a traffic accident on that day while he was engaged in the performance of his duty for that Service. The beneficiaries filed a claim with the Bureau of Employees' Compensation on August 18, 1954, and in it stated that the deceased employee had lived with them since he came to the United States in 1940, and had contributed substantially to their support.

Section 10 (E) of the Federal Employees' Compensation Act provides that compensation may be paid to the parents of a deceased employee when they were dependent upon him for support to some extent at the time of his death. The act does not make such a pro-

vision for the claimants named in H. R. 2635 because they are an aunt and uncle and are not within the class of persons named in the act. A similar situation exists as regards the Social Security Act. Mr. and Mrs. Winter do not qualify as parents within the terms of section 202 (h) of that act. Both the Department of Labor and the Department of Health, Education, and Welfare have stated that they oppose the bill because it makes special provision for benefits for Mr. and Mrs. Winter.

The evidence presented to the committee shows that Jack Winter regarded the claimants as his parents and his relationship to them was just as that of a son. He legally changed his name to "Winter," the name of the claimants. He went through the procedure to have his aunt and uncle declared "in loco parentis" so that they could be paid an allotment while he was in the Army. The committee file contains letters from Jack Winter to the claimants while he was in the Army which he addressed "My dearest parents." Mr. Winter was the beneficiary of Jack Winter's life insurance. In fact when Jack Winter came to the United States, the Winters were under the impression that a German court had made him their adopted son. In fact that court had made them the boy's legal guardians. This evidence has moved the committee to recommend that the bill be considered favorably.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
Washington, August 21, 1957.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives,
Washington, D. C.

DEAR MR. CHAIRMAN: This letter is in response to your request of February 13, 1957, for a report on H. R. 2635, a bill for the relief of William Winter and Mrs. Regina Winter.

The bill would provide that for the purposes of section 10 (E) of the Federal Employees' Compensation Act and section 202 (h) of the Social Security Act, William Winter and Mrs. Regina Winter should be deemed to be the parents of Jack Winter, who died on July 1, 1954. Since the Federal Employees' Compensation Act is not administered by the Department of Health, Education, and Welfare, this report will concern itself only with the relationship of the bill to the provisions of the Social Security Act.

Jack Winter (born in 1922, in Germany) was the nephew of Mr. and Mrs. Winter, who state that they became his guardians when he was 5 years of age under an appointment made by a German court. Mr. and Mrs. Winter have expressed the belief that the appointment had the effect of making them the adopting parents of Jack Winter. However, we understand that this belief as to the effect of an appointment as guardian under German law is erroneous. At any rate, no copy of this appointment or of any other document bearing on the relationship between Jack Winter and Mr. and Mrs. Winter has ever been furnished to this Department, although requested.

Section 202 (h) of the Social Security Act defines the term "parent" for purposes of old-age and survivors insurance benefits to mean an individual's natural parent, stepparent by a marriage contracted before the individual attained the age of 16, or adopting parent by whom

the individual was adopted before he attained the age of 16. Mr. and Mrs. Winter were not, of course, either the natural parents or step-parents of Jack Winter. Further, there was no evidence that they were the adopting parents of Jack Winter, even though they may have been appointed as guardians. Therefore, there was no legal basis upon which they could be held to have met the definition of "parent" under the Social Security Act.

Section 205 (b) of the Social Security Act provides that any person who feels aggrieved at a decision of the Secretary is entitled to an opportunity to be heard on his claims. Although Mr. and Mrs. Winter were advised in 1954 that they were not entitled to parent's benefits, and in the same letters were advised that they were entitled to such a hearing, they never requested such a hearing.

If any modification were to be made in the requirement of eligibility for parent's benefits, it should be in the statute and available to all applicants equally. Enactment of a bill permitting the payment of parent's benefits to Mr. and Mrs. Winter, for which no provision is made in the basic law, would be special legislation giving an advantage to some individuals under conditions identical to those under which a similar advantage would be denied to others. We believe that as stated by the President in his veto message on H. R. 1334, 83d Congress (H. Doc. No. 177), special legislation of this nature would be "undesirable and contrary to sound principles of equity and justice."

For these reasons, we recommend that H. R. 2635 not be enacted by the Congress.

The Bureau of the Budget advises that it perceives no objection to the submission of this report to your committee.

Sincerely yours,

EDWARD FOSS WILSON,
Acting Secretary.

AFFIDAVIT

STATE OF NEW YORK, CITY OF NEW YORK,
County of Bronx, ss:

William Winter, being duly sworn, deposes and says: I reside at 1155 Simpson Street, in the county of Bronx, city and State of New York. My wife, Regina Winter, resides there with me. I am 60 years of age and have had a severe cardiac condition for more than 15 years. My wife, Regina Winter, is 69 years of age and is handicapped by a hip injury. She uses a crutch to walk.

Jack Winter, who died in the performance of his duty as Federal mediator on July 1, 1954, was our nephew. His mother was my wife Regina's sister. Jack was born Jacob Flonder in Germany, June 22, 1922. When the boy was about 3 years old, he became dependant upon me for his support. His father had deserted the family and gone to the United States. In 1929, we went through a court proceeding in Kiel, Germany, where we then lived, which we believed to be a legal adoption. Jack lived with us as our own son. We provided for him to the best of our ability, which in those days was quite well. At the outbreak of the troubles preceding the Hitler regime, Jack was injured in a street fight and we took instant steps to send him out of the country, planning to follow ourselves as soon as conditions permitted. Ill-health, business reverses, and the tangled political picture made it impossible for us to leave Germany until 1939 when we went to England. We arrived in the United States in 1940.

Jack was then 18 years of age, had been away from us about 9 years, and seemingly could have taken care of himself if he had so desired. On the day of our arrival, ill and in straitened financial circumstances, Jack, nevertheless, joined our household and never left it again, except for the performance of his duties for the Government, first as a soldier in World War II and then as a Federal mediator.

Jack became a citizen of the United States while he was in the Army and at the time of his citizenship, he legally changed his name to mine and thereupon became Jack Winter as he was known until the time of his death.

He went through the necessary procedure to have us declared "in loco parentis" for the purpose of payment of his allotment to us and we have therefore been recognized by at least one governmental agency as being in the position of parents. I am attaching letters which Jack wrote to us while he was in the Army in which you can plainly see that he addressed us as "My dearest parents." I was the beneficiary of Jack's life insurance, and he held his bank account jointly in his name and mine. All of his Government bonds were held jointly by Jack and me.

Since my health has not permitted me to work, Jack supported my wife and me. He paid the rent on our apartment in New York and himself lived in furnished rooms in Washington, Cleveland, and Louisville. He rarely had more personal possessions with him than his clothing needs for the current season. All of his personal belongings, such as phonograph records, typewriter, school records, diplomas, books, and even photographs, were always at our home in New York. He planned to find a house in whatever city he would be permanently stationed for the Mediation Service, and my wife and I intended to join him no matter where it might be. He wrote many letters to us and to his friends about his trials and tribulations of househunting in both Cleveland and Louisville, even for the short time he was in that city before he died.

My wife and I always have regarded Jack as our own child and have had the joy of believing that he regarded us as his parents. It was quite shocking to us to learn that the German court had merely declared us legal guardians and not adoptive parents. All through Jack's all too brief life, we behaved like a loving, devoted, and close-knit family. During the time that Jack was in Washington, D. C., he came home every weekend. At one point when he was stationed in Cleveland, my wife became gravely ill. Jack pleaded for and obtained a temporary assignment to the New York office of the Federal Mediation and Conciliation Service so that he could take care of me while my wife lay ill in the hospital. He was here for 60 days at that time.

We are grateful for every additional day that Jack lived but it does seem ironic that if he had died in the military service of his country, there would have been no question about our rights as "parents." The question does however arise since he died in the civilian service of his country.

My wife, Regina Winter, and I respectfully request that the Congress of the United States make it possible for us to be deemed his parents nevertheless.

WILLIAM WINTER.

Sworn to before me this 12th day of December 1955.

FLORENCE BELSKY,
Notary Public, State of New York.

Commission expires March 30, 1957.

AFFIDAVIT

STATE OF NEW YORK, CITY OF NEW YORK,
County of New York, ss:

Florence Belsky, being duly sworn, deposes and says:

I reside at 225 West 25th Street in the city, county, and State of New York. I first became acquainted with Jack Winter in 1952 when we were both employed in Washington, D. C. At that time Jack was making a weekly trip to New York City so that he could spend Saturday and Sunday with William and Regina Winter. He talked to me at length about how troubled he was about their poor health and about how much he wanted them to be with him. However, as his stay in Washington was for the purpose of training, he felt that he would make a permanent home for them with him in whatever city he would be stationed. After both Jack and I left Washington, he wrote to me frequently about his house-hunting expeditions and his concern for Mr. and Mrs. Winter.

Jack did not complain of a lack of money, but he allowed himself very few luxuries, and he did mention the difficulty of maintaining two households. He lived in furnished rooms in Washington, Cleveland, and Louisville, and never seemed to have more than he could carry in a suitcase. However, in his home with Mr. and Mrs. Winter in New York, he showed me his books, diplomas from college and university, souvenirs of his war experiences, and other personal things which he kept at "home." I never doubted for a moment that he regarded any residence away from the Winters as temporary, and that he was deeply concerned about their well-being at all times.

It was obvious to me that the poor health of both Mr. and Mrs. Winter made employment for either of them impossible, and Jack told me that this condition had prevailed for a considerable length of time, but that he had been grown up enough to start working when his uncle was no longer able to, and had kept the same apartment for them. I knew that he was their sole support.

Jack wrote to me a day or two before he died to tell me that he would be at home with Mr. and Mrs. Winter for about a week and that they were all expecting to see me there. He had asked me to telephone and visit them as often as I could and I believe he was looking forward to an early opportunity of bringing them to Louisville to live with him. He died on July 1, 1954, 1 day before he was scheduled to spend his week's vacation with Mr. and Mrs. Winter.

From my many conversations with Jack, his comments in his letters, and my own observation of him with Mr. and Mrs. Winter, I am certain that this was as close a family as was possible, and there was

never any doubt in my mind that Jack considered Mr. and Mrs. Winter to be his parents.

FLORENCE BELSKY;

Sworn to before me this 2d day of December 1955.

HOLLY PELTO,

Notary Public State of New York:

Commission expires March 30, 1957.

AFFIDAVIT

STATE OF NEW YORK,

CITY OF NEW YORK,

County of Bronx, ss:

Ralph Lichtenstein, being duly sworn, deposes and says:

I reside at 1417 Grand Concourse, in the county of Bronx, city and State of New York.

I first met Jack Winter when we were both employed at the American Arbitration Association in New York City in 1947. We became good friends and I visited in his home on many occasions. I knew that Jack regarded Mr. and Mrs. Winter, with whom he resided, as his closest relatives.

After we renewed acquaintances in Washington, D. C., Jack was still taking weekly trips to New York to spend weekends with Mr. and Mrs. Winter. He lived in a furnished room in Washington, keeping with him only the clothes that were necessary. All his books, school records, photographs, and other personal belongings remained in New York with the Winters. Wherever they were was Jack's home and wherever he lived without them, he regarded as a temporary but necessary shelter. He often talked to me about his concern over Mr. Winter's poor health which was a result of his experiences in Germany, and was terribly concerned after Mrs. Winter injured her hip. He often talked about getting a permanent assignment so that he could find a permanent home where Mr. and Mrs. Winter could join him. He always maintained their apartment in New York, sometimes living on very little money himself in order to do it.

I was always certain that Jack regarded Mr. and Mrs. Winter as his parents since he had told me on many occasions of how they brought him up and what he felt he owed them.

RALPH LICHTENSTEIN.

Sworn to before me this 3d day of December 1955.

FLORENCE BELSKY,

Notary Public, State of New York.

Commission expires March 30, 1957.

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